



Deputy National Taxpayer Advocate

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Affected IRM(s): IRM 13.1.10 and 13.1.4

MEMORANDUM FOR ALL TAXPAYER ADVOCATE EMPLOYEES

FROM: Melissa R. Snell /s/ *Melissa R. Snell* 12/06/2007
Deputy National Taxpayer Advocate

SUBJECT: Guidance on Identifying FPLP Levies That Can Be Released
by TAS

The purpose of this memorandum is to provide guidance on TAS's authority to release FPLP levies. Please ensure that this information is distributed to all affected employees within your organization.

Although TAS's authority to work cases was recently modified by Acting Commissioner Kevin Brown, the authority to release levies in systemically generated cases has not changed. In addition, the general principle that TAS cannot take action on a case that is open in another function remains applicable. Acting Commissioner Brown's August 20, 2007, memorandum, however, narrowed the definition of "open in another function," making it possible for TAS to work more cases without using Operations Assistance Requests (OARs). For example, accounts in status 23 (below tolerance), status 24 (TDA issued, awaiting paper or ICS assignment), and status 53 (currently not collectible) are no longer considered "open in another function." For the full text on revised authorities, see Acting Commissioner Kevin Brown's memorandum (attached).

Case advocates must conduct IDRS research on all cases, including those in status 23, 24, or 53, as part of the initial case actions to determine if the account is included in the FPLP. Tax modules included in the FPLP program are identifiable on IDRS by Transaction Code (TC) 971 with Action Code (AC) 060, 062 and 069. Command codes ENMOD, SUMRY and IMFOL/BMFOL will also display the indicator of FMS Levy >1 or FMS CD>1 or 3 (see IRM 5.19.9.3.2.5, FPLP Indicators). As a result of the modifications to TAS's authorities that were effective October 1, 2007, TAS employees are now authorized to release levies in FPLP cases when accounts are in status 23, 24, or 53.

Guidance on releasing FPLP levies is covered in IRM 13.1.10.12.1.5. This IRM section provides guidance on TAS's authority to release levies in systemically-generated cases. IRM 13.1.10.12.1.2, *Identifying FPLP Cases*, states "status codes 22, 23, 24, 26 and 53, with closing codes 03, 06, 09, 10, 12, 13 and 39, are subject to levy." Case advocates should be aware of these statuses and closing codes, and identify cases that are potentially subject to levy actions or eligible for levy release. IRM 13.1.10.12.1.5 references the requirement to contact ACS to have an FPLP levy released when the case is in status 22, as status 22 is considered "open in another function." Similarly, IRM 13.1.4.2.3.19(2) provides that TAS has the authority to release an FPLP levy, except for modules in status 26. IRM 5.11.7.2.1.2, however, states that accounts in status 22 (ACS) and status 26 (Field Collection) are under the jurisdiction of the Operating Division or Function. Thus, IRM 13 will be changed to reflect that TAS cannot release a levy that is assigned to status 22 or status 26. In addition, IRM 13 will be revised to reflect that cases in status 23, 24, and 53 are no longer considered "open in another function."

Effect on Other Documents: This guidance will be incorporated into IRM 13.1.4 and IRM 13.1.10 by June 15, 2008.

Attachment

Attachment

August 20, 2007

MEMORANDUM FOR NATIONAL TAXPAYER ADVOCATE
CHIEF COUNSEL
COMMISSIONER, LARGE AND MID-SIZE
BUSINESS DIVISION
COMMISSIONER, SMALL BUSINESS/SELF-
EMPLOYED DIVISION
COMMISSIONER, TAX EXEMPT AND GOVERNMENT
ENTITIES DIVISION
COMMISSIONER, WAGE AND INVESTMENT DIVISION
CHIEF, APPEALS
CHIEF, CRIMINAL INVESTIGATION

FROM: Kevin M. Brown /s/ Kevin M. Brown
Acting Commissioner of Internal Revenue

SUBJECT: Taxpayer Advocate Service Delegated Authorities

This memorandum, together with the attached chart of decisions, modifies the authorities delegated to the Taxpayer Advocate Service (TAS) in Delegation Order 267 (IRM 1.2.50.5). These modifications are effective October 1, 2007, and Delegation Order 267 will be revised accordingly.

Background

By memorandum dated January 17, 2001, Commissioner Rossotti delegated certain accounts management authorities to the National Taxpayer Advocate (NTA). Those authorities were memorialized by the issuance of Delegation Order 267. In addition, IRS Operating Division Commissioners, the Chief, Appeals, Chief Counsel, and the Acting NTA signed a memorandum of understanding committing to convene a short-term task force in one year to determine whether additional authorities to handle routine cases should be delegated to the NTA.

Nina E. Olson reported as the NTA in March 2001. She supported the approach taken in determining the authorities delegated to the NTA, directed a training program to

ensure her staff understood the basis for the delegated authorities and their role as advocates for taxpayers, and then redelegated the accounts management authorities to TAS employees in October 2001. In January 2002, Commissioner Rossotti agreed with the NTA that it was premature to review TAS authorities at that time.

In May 2003, the NTA convened a TAS task force to review TAS current delegated authorities. The NTA briefed the Commissioners for Wage and Investment (W&I) and Small Business/Self Employed (SB/SE) in October 2005, regarding the task force's recommendations and the NTA and Deputy NTA decisions with respect to those recommendations. Commissioner Everson then appointed an executive steering committee consisting of the NTA and executives in W&I, SB/SE, the Office of Appeals and the Office of Chief Counsel to evaluate TAS delegated authorities. The executive steering committee appointed a working group consisting of representatives from each function to conduct the review of TAS authorities.

Foundational Premise

When Congress created the Office of the Taxpayer Advocate, Congress delineated specific functions for the Office. Those functions include not only assisting taxpayers in resolving problems with the IRS, but also advocating for taxpayers by proposing changes in the administrative practices of the IRS and identifying potential legislative changes to mitigate those problems. Thus, while I am delegating authorities to TAS, those authorities should not undercut TAS's role as an advocate for taxpayers.

Guiding Principles

In delegating these authorities to TAS, the following principles were followed:

- The authorities delegated to TAS should be limited in general to customer service issues and problems,
- The authorities delegated to TAS should not establish a new process,
- The authorities delegated to TAS should not establish a "mini-IRS" (i.e., TAS should not be a substitute for some other IRS Operating Division/Function),
- The authorities delegated to TAS should not create situations where TAS and some other Operating Division/Function are concurrently working the case and disagree about the proper resolution of the case,
- The authorities delegated to TAS must not include cases where TAS does not have access to IRS systems, such as open AIMS cases, NMF/MFT 31 cases, bankruptcy cases, cases in Appeals, OICs, or TFRP cases, and
- The authorities delegated to TAS cover any case that meets TAS case criteria, without regard to the specific criteria number.

After taking into account the recommendations of the working group and decisions of the executive steering committee, I modify the authorities delegated to TAS in Delegation Order 267, as described in this memorandum and summarized in the attached chart. With the exceptions noted in the attached chart, TAS employees should have the same authorities as those granted to Accounts Management employees in IRM 21 and IRM 5.19, as those authorities are by nature routine and nonsubstantive, and require little independent judgment or in-depth research. Authorities delegated to TAS, however, should not conflict with TAS's role as an advocate for the taxpayer. For example, TAS employees will no longer have the authority to make determinations on claims for refund or requests for penalty abatement. Similarly, TAS employees will no longer be able to report an account as currently not collectible. In addition, TAS employees cannot take action on a case that is considered open in another IRS function. Thus, for cases that are open in another IRS function, the Operating Division/Function must first make any substantive determination and authorize the action, and then relinquish control over the case so that TAS employees will have the authority to perform any back-end processing and clerical actions necessary to fully resolve the taxpayer's problem.

This information should be disseminated to your organizations and incorporated into your respective IRM chapters as soon as practicable. In addition, existing Delegation Order 267 will be revised. Moreover, the IRM must be revised to properly define what constitutes "open in another IRS function." Until that time, you may rely on this memorandum and attachment.

Attachment

cc: Deputy Commissioner Services and Enforcement

Attachment

TAS Delegated Authorities Modifications to Delegation Order 267 Effective October 1, 2007

Authority	Decision	Comments
Allow/Disallow Claims for Credit or Refund	Relinquish authority.	Authority relinquished because not consistent with TAS's role as an advocate.
Accept/Deny Penalty Abatement Request Due to Reasonable Cause	Relinquish authority.	Authority relinquished because not consistent with TAS's role as an advocate.
Report Accounts as Currently Not Collectible	Relinquish authority.	Authority relinquished because not consistent with TAS's role as an advocate.
Take Action on Cases in Collection Status 23 (below tolerance), 24 (TDA issued, awaiting paper or ICS assignment), 53 (currently not collectible), 60 (Installment Agreement), 64 (Defaulted Installment Agreement) and AIMS status 08 and Below	Revise the IRM to make clear that cases in these statuses are not "open in another function."	Caveat: The IRM will clarify the definition of "open in another function" and will be reviewed annually to determine if the status should be redefined or if the status has taken on a new meaning that would impact the recommendation.
Correct Adjustment Errors Made by an OD/Function	Clarify IRM guidance regarding the circumstances in which TAS has the authority to correct errors made by another OD/Function.	
Input Adjustment after OD/Function Makes a Determination and provides TAS with specific directions and dollar amount(s) of the authorized adjustment	Obtain authority.	
Issue Manual Refunds on Cases Open in Another OD/Function	Obtain authority.	Caveat: Must have written approval from the OD/Function before issuing manual refund.
Process Other Inquiries and Adjustments – Various Sections of IRM 21.5.3.4.16.2 through 21.5.3.4.16.15 (Claims and procedures related	Relinquish authority.	Authority relinquished based on complexity and specialization.

Authority	Decision	Comments
to civil cases, renegotiation of government contracts, timely filed blank returns, receipt of deposits and claims for refunds of cash bonds)		
Change Filing Status from Joint to Separate, Single or Head of Household	Relinquish authority.	Authority relinquished based on complexity and specialization.
Process Request for Filing Status Change When Only One Spouse Requests Change	Relinquish authority.	Authority relinquished based on complexity and specialization.
Change Filing Status from Joint to Separate Based on Unlawful Filing Procedures	Relinquish authority.	Authority relinquished based on complexity and specialization.
Make Tax Period Changes	Relinquish authority.	Authority relinquished based on complexity and specialization.
Process Form 5329/Prepare Dummy Form 1040	Relinquish authority.	Authority relinquished based on complexity and specialization.
Process Change in Accounting Methods	Relinquish authority.	Authority relinquished based on complexity and specialization.
Compute Interest Under the Look-back Method	Relinquish authority.	Authority relinquished based on complexity and specialization.
Process Claim for Repayment of Debt Cancellation/Claim of Right	Relinquish authority.	Authority relinquished based on complexity and specialization.
Process Adjustment involving Transportation Expense Deduction	Relinquish authority.	Authority relinquished based on complexity and specialization.
Process Claim for Veterans Disability Compensation Excluded from Gross Income	Relinquish authority.	Authority relinquished based on complexity and specialization.